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Subject: Fw: Aljazeera America: Chicken farmer battles the EPA - If a court finds in Lois Alt's favor, thousands of large farms could be exempt from the Clean Water Act
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All Thumbs!
Please excuse typos and terse replies.
Protect Our Nation's Waters

From: Frank <homebythehills@comcast.net>
Sent: Tuesday, July 8, 2014 4:25:39 PM
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Subject: Aljazeera America: Chicken farmer battles the EPA - If a court finds in Lois Alt's favor, thousands of large farms could be exempt from the Clean Water Act

"The Farm Bureau loves to say this is just a grandmother growing some chickens, doing all the right things. That's nonsense."

-- Scott Edwards -- Food and Water Watch

Poop in the coop: Chicken farmer battles the EPA

If a court finds in Lois Alt's favor, thousands of large farms could be exempt from the Clean Water Act

<http://america.aljazeera.com/articles/2014/7/8/chicken-farmer-loisaltvsthespa.html>

July 8, 2014 5:00AM ET

by [Peter Andrey Smith](#)



Lois Alt in one of her chicken houses on her West Virginia farm. David Harp / Chesapeakephotos.com

MOOREFIELD, W.Va. — Mudlick Run rises in the foothills of the Alleghenies. The creek tumbles, muddy and turbid, for eight miles through the hardwood forest and grassy pastures of northeastern West Virginia to a village called Old Fields. There, joining the south branch of the Potomac River, it meanders past a Pilgrim's poultry plant, which sends up plumes of chicken-scented steam. The water eventually empties into the Chesapeake Bay. Farms line the creek, and six miles west of Moorefield, up a steep bank, lies a 24-acre parcel with eight silver chicken houses and 16 cylindrical feed bins.

On the morning of June 17, 2011, Lois Alt, a petite 62-year-old with short, reddish hair and glasses, stepped out of the chicken houses. Nearly a dozen federal and state officials gathered on her driveway. Ashley Toy, an inspector from the Philadelphia office of the Environmental Protection Agency (EPA), and seven or eight others began walking around the houses with clipboards and a camera. Since 2001, Alt and her husband, Tony, have been raising chickens — about 200,000 at a time — on their property under contract with Pilgrim's, the second-largest chicken producer in the world. They had just finished a total clean-out of the barns, removing hundreds of tons of manure-caked litter.

Before the inspectors left, Alt asked, "Was there anything that you've seen that we need to be doing?"

As Alt remembers it, Toy told her, "You will get a full report, but it's one of the cleanest, well-managed farms I've been on."

Months went by. In early November, Alt [received a registered letter](#) from the EPA. It said the farm was polluting the creek in violation of federal law. When it rained, the letter explained, dust and chicken manure could flow down man-made ditches on her property and into Mudlick Run. The letter said that because of its size, Alt's farm qualified as a concentrated animal feeding operation (CAFO), a type of industrial farm regulated by the EPA under the 1972 Clean Water Act. Waste from industrial farms is cited as a [leading pollutant](#) of the

country's waterways, and the EPA has been [stepping up oversight](#) of large-scale agriculture.

Alt needed to fill out paperwork and apply for permits to discharge pollutants — at a cost of \$100 annually — or she could be fined up to \$37,500 a day. The letter made her head spin.



Lois Alt raises roughly 200,000 chickens at a time on her farm, under contract with the poultry company Pilgrim's. David Harp / Chesapeakephotos.com

At first, she agreed to apply for the permits, but the decision did not sit right with her. She did not consider herself a polluter. As Alt saw it, the runoff practically had to run uphill or across a meadow the size of two football fields to reach the creek. She wrote letters to state officials, who referred her back to the EPA. Then one evening that month, Charles Wilfong, president of the West Virginia Farm Bureau, the state's largest farm organization, called her. "The farm bureau offered to step in and represent us," Alt says. "They said, 'We see no fault. We agree with you.' That's when we went full force."

The following June, her attorney filed a suit against the EPA, arguing that Alt should be exempt from an EPA permit. While CAFOs — farms with more than 125,000 chickens — are regulated under the Clean Water Act, Alt's lawyer argued that any runoff from her farm was created by ordinary rainfall that could wash feather dust and manure downstream. That waste was part of normal farm operations, he said, and eligible for an "agricultural storm water" exemption. The case was one of the first to employ this type of legal argument. The American Farm Bureau, the nation's largest farm lobbying organization, joined the case later that year.

On Oct. 23, 2013, the U.S. District Court for the Northern District of West Virginia ruled in her favor. In an editorial praising the decision, the Moorefield Examiner, the local paper, said the case pitted number-crunching bureaucrats against one small farmer. As the Examiner put it, "[Goliath took a hit](#)." Late last year, the EPA appealed.

Alt v. EPA represents the latest salvo in a battle between environmental regulators and the farm industry. Ellen Steen, an American Farm Bureau attorney who visited Alt's farm in 2012, said the EPA is taking a sweeping view of runoff to force farmers into a "federal permitting regime." Steen said heavy-handed regulations are particularly onerous for the typical family farmer and the regulations don't necessarily ensure better environmental practices. (The EPA declined to comment for this story, citing ongoing litigation.)

To environmentalists, on the other hand, the data are clear: Farm runoff deprives fish of oxygen and [contributes to dead zones](#) that plague the Chesapeake Bay and other bodies of water. Alt's farm was clearly an industrial CAFO, EPA lawyers said, and her farm was not eligible for an agricultural stormwater exemption.



Algae blooms (the dark areas at right) are common at the mouth of the Elizabeth River in Norfolk, Virginia. Environmental groups say agriculture waste contributes to the blooms, which lead to oxygen-depleted dead zones. Morgan Heim / AP

Environmental groups warn of the potential consequences if Alt wins. "Name any waterway in this country — the Great Lakes, the Mississippi River basin or Chesapeake Bay — the largest source of pollution is industrial agriculture and nitrogen and phosphorus that pours off of these facilities," says Scott Edwards, an attorney with Food and Water Watch, one of six environmental groups that have intervened in the case on behalf of the EPA. "It's the classic case of death by a thousand cuts. Ms. Alt might be a minor player, but she's contributing to the death of one of the richest, most important waterways. If you let Ms. Alt do this and you let farmer Brown do this and farmer Smith, then you throw your hands up and walk away. The bay is dead. You're done."

Indeed, the case is not just about Alt. Today, meat production is concentrated among a handful of companies, including Pilgrim's — a Colorado-based subsidiary of Brazilian food company JBS S.A., which describes itself as the world's largest protein producer. Pilgrim's outsources the raising of birds to 3,900 farmers, or contract growers, who are among the 20,000 CAFOs in the U.S. Should the court uphold a decision in Alt's favor, all these operations will be exempt from the Clean Water Act.

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Scott Edwards

Food and Water Watch

The Alts were celebrated for their efforts by farm trade groups. In January 2014, when the couple attended the American Farm Bureau's national meeting in San Antonio, Lois Alt says, many people came up and shook her hand. At a welcoming speech, Bob Stallman, the Farm Bureau president, showed the audience a video of the couple's chicken houses. The nation's farmers and ranchers, he told the audience, were preparing to battle illegitimate efforts to broaden the reach of the Clean Water Act. "Whether it's a regulatory, legal or legislative issue," he said, "just think how much the Farm Bureau could achieve if everyone were like Lois Alt — looking beyond our own individual interests, taking a long-term view and taking a stand for America's farmers and ranchers."

To others, though, the Alt case is another example of longstanding efforts by the agricultural industry to evade regulation. Edwards says Alt's story fits neatly into a public-relations campaign about federal overreach. "The Farm Bureau loves to say this is just a grandmother growing some chickens, doing all the right things. That's nonsense. The Farm Bureau wanted this case," he says. "They don't give a damn about the Alts. All they care about is industry — the Tysons and Smithfields and Purdues. They want to make sure the big industry actors are always going to be immune from Clean Water Act and other regulations."

The West Virginia Court of Appeals for the 4th Circuit is expected to hear the case later this year. Some environmental lawyers suspect the decision may extend the Clean Water Act's jurisdiction over dust kicked up not only by farms but also by coal companies, whose airborne pollutants often end up in the nation's water.

We made a commitment. When I took this battle on, I didn't expect the company to back me.

Lois Alt

One evening in April, a few miles southwest of Moorefield, a dozen poultry growers sat in folding chairs at a library in Petersburg. The group of self-proclaimed dissidents — known as the Contract Poultry Growers Association of the Virginias — removed their hats and bowed their heads in prayer. Mike Weaver, a mustached man from nearby Fort Seybert, slipped on his bifocals and began the meeting. He explained a new technology that would incinerate chicken litter, potentially increasing its value as fertilizer. Weaver asked the growers what they thought about Walmart's entry into the organic market. When he offered up \$5 raffle tickets for a copy of "The Meat Racket," an exposé of Tyson Foods and the company's efforts to keep poultry growers in a state of indebted servitude, the growers spoke up in agreement.

"They just keep the noose around your neck."

"Keep us in debt so you can't see the sun come up."

"Kind of like the company store and the coal mine."

Despite the millions of dollars they had invested in land and barns, the growers said, Pilgrim's had not given them a raise in 30 years. Like other meat processors, Pilgrim's is a vertically integrated company, often referred to as an integrator, meaning it controls every aspect of the supply chain. These companies oversee virtually every step: hatching chicks, supplying feed to growers and processing millions of chickens. But the most expensive stages in the process are handed off to contract growers who acquire land, build barns and, when everything is up and running, dispose of tons of waste every 35 or so days. Poultry integrators own the chicks and provide feed to the growers, but other responsibilities fall to growers. "We're independent contractors," Weaver said. "It's our operation that's in jeopardy. If the EPA creates some regulations that sets standards that we can't meet, it's going to put us out of business."

Charles Look, a wiry grower wearing glasses and jeans, said, "I don't even think Pilgrim's offered to help the Alts whatsoever."

Weaver said, "If they get involved, they'd have to take some of the responsibility. They don't want to do that."

The company declined tour and interview requests, but a representative confirmed that Pilgrim's had not intervened in the case. To environmental groups, the Alt case fits a pattern of how meat producers designed a system that passes legal and regulatory costs on to mom-and-pop operators, who have gone to great lengths to keep from losing homes and farms they have mortgaged in order to build barns to the company's specifications.

Alt doesn't see it that way. "We made a commitment," she says. "When I took this battle on, I didn't expect the company to back me."

She sees herself as a steward of the land. After working as an electrician in Virginia, Alt moved back home to

West Virginia in 2001 to be closer to family. She drinks springwater coming down off the hills behind her home, and so do the birds Pilgrim's packs into her eight chicken houses, each 400 feet long. She said that she believed EPA regulations threatened her livelihood and that she wasn't ready to stop farming. "I'd like to continue knowing where our food comes from in America."